

Assembly Bill No. 1314

CHAPTER 640

An act to amend Sections 22500 and 40215 of, and to add Sections 22511, 22511.1, 40226, and 42001.6 to, the Vehicle Code, relating to parking violations.

[Approved by Governor September 17, 2002. Filed
with Secretary of State September 18, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1314, Havice. Parking.

(1) Existing law provides that no person shall stop, park, or leave a vehicle in front of a curb that has been constructed to provide wheelchair accessibility to the sidewalk so designated by either a sign or red paint.

This bill would provide that it is unlawful to stop, park, or leave a vehicle in front of or upon a curb that has been constructed to provide wheelchair accessibility to the sidewalk. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

(2) Existing law authorizes local authorities to enact ordinances governing various types of vehicle parking.

This bill would authorize local authorities to enact an ordinance or resolution regulating parking spaces for electric vehicles, as specified.

(3) Existing law requires the Department of Motor Vehicles to issue distinctive decals, labels, or other identifiers for low-emission vehicles and super ultralow emission vehicles for the purposes of implementing a high-occupancy vehicle lanes program. Existing law makes it unlawful for any person to park or leave standing any vehicle in a stall or space designated for disabled persons and disabled veterans unless the vehicle displays either a special identification license plate or a distinguished placard. Existing law also provides a procedure for the removal of vehicles unlawfully parked in the designated stalls or spaces of public or private offstreet parking facilities.

This bill would provide that no person may park or leave standing any vehicle in a stall or space designated for parking and fueling of zero-emission vehicles, as defined, unless the vehicle displays a decal issued by the department for zero-emission vehicles. The bill would require the department to make decals available beginning July 1, 2003.

Because a violation of this prohibition would be an infraction punishable by a \$100 fine, the bill would impose a state-mandated local program by creating a new crime.

This bill would set forth a procedure for the removal of a vehicle unlawfully parked in a stall or space designated for parking and fueling zero-emission vehicles in an offstreet parking facility that would be similar to the existing procedure governing the removal of unauthorized parking in a disabled parking stall or space.

This bill would also provide that an agency that issues a fine for failure to display a disabled placard may, in lieu of collecting a fine, charge an administrative fee not to exceed \$25 if the individual who received the citation can show proof that he or she had been issued a valid placard at the time he or she was cited.

(4) This bill would make other technical, nonsubstantive changes.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 22500 of the Vehicle Code is amended to read:

22500. No person shall stop, park, or leave standing any vehicle whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or official traffic control device, in any of the following places:

(a) Within an intersection, except adjacent to curbs as may be permitted by local ordinance.

(b) On a crosswalk, except that a bus engaged as a common carrier or a taxicab may stop in an unmarked crosswalk to load or unload passengers when authorized by the legislative body of any city pursuant to an ordinance.

(c) Between a safety zone and the adjacent right-hand curb or within the area between the zone and the curb as may be indicated by a sign or red paint on the curb, which sign or paint was erected or placed by local authorities pursuant to an ordinance.

(d) Within 15 feet of the driveway entrance to any fire station. This subdivision does not apply to any vehicle owned or operated by a fire department and clearly marked as a fire department vehicle.

(e) In front of a public or private driveway, except that a bus engaged as a common carrier, schoolbus, or a taxicab may stop to load or unload passengers when authorized by local authorities pursuant to an ordinance.



In unincorporated territory, where the entrance of a private road or driveway is not delineated by an opening in a curb or by other curb construction, so much of the surface of the ground as is paved, surfaced, or otherwise plainly marked by vehicle use as a private road or driveway entrance, shall constitute a driveway.

(f) On any portion of a sidewalk, or with the body of the vehicle extending over any portion of a sidewalk, except electric carts when authorized by local ordinance, as specified in Section 21114.5. Lights, mirrors, or devices that are required to be mounted upon a vehicle under this code may extend from the body of the vehicle over the sidewalk to a distance of not more than 10 inches.

(g) Alongside or opposite any street or highway excavation or obstruction when stopping, standing, or parking would obstruct traffic.

(h) On the roadway side of any vehicle stopped, parked, or standing at the curb or edge of a highway, except for a schoolbus when stopped to load or unload pupils in a business or residence district where the speed limit is 25 miles per hour or less.

(i) Except as provided under Section 22500.5, alongside curb space authorized for the loading and unloading of passengers of a bus engaged as a common carrier in local transportation when indicated by a sign or red paint on the curb erected or painted by local authorities pursuant to an ordinance.

(j) In a tube or tunnel, except vehicles of the authorities in charge, being used in the repair, maintenance, or inspection of the facility.

(k) Upon a bridge, except vehicles of the authorities in charge, being used in the repair, maintenance, or inspection of the facility, and except that buses engaged as a common carrier in local transportation may stop to load or unload passengers upon a bridge where sidewalks are provided, when authorized by local authorities pursuant to an ordinance, and except that local authorities pursuant to an ordinance or the Department of Transportation pursuant to an order, within their respective jurisdictions, may permit parking on bridges having sidewalks and shoulders of sufficient width to permit parking without interfering with the normal movement of traffic on the roadway. Local authorities, by ordinance or resolution, may permit parking on these bridges on state highways in their respective jurisdictions if the ordinance or resolution is first approved in writing by the Department of Transportation. Parking shall not be permitted unless there are signs in place, as may be necessary, to indicate the provisions of local ordinances or the order of the Department of Transportation.

(l) In front of or upon that portion of a curb that has been cut down, lowered, or constructed to provide wheelchair accessibility to the sidewalk.



SEC. 2. Section 22511 is added to the Vehicle Code, to read:

22511. (a) Any local authority, by ordinance or resolution, and any person in lawful possession of an offstreet parking facility may designate stalls or spaces in an offstreet parking facility owned or operated by that local authority or person for the exclusive purpose of fueling and parking a vehicle that displays a valid zero-emission vehicle (ZEV) decal identification posted on the driver's side rear window or bumper of the vehicle or, notwithstanding any other provision of law, if the vehicle does not have a rear window or bumper, on the driver's side of the windshield issued by the Department of Motor Vehicles pursuant to this section. The designation shall be made by posting a sign in compliance with subdivision (d) or (e).

(b) If posted in accordance with subdivision (d) or (e), the owner or person in lawful possession of a privately owned or operated offstreet parking facility, after notifying the police or sheriff's department, may cause the removal of a vehicle from a stall or space designated pursuant to subdivision (a) in the facility to the nearest public garage if a valid ZEV decal identification issued pursuant to this section is not displayed on the vehicle.

(c) If posted in accordance with subdivision (d), the local authority owning or operating an offstreet parking facility, after notifying the police or sheriff's department, may cause the removal of a vehicle from a stall or space designated pursuant to subdivision (a) in the facility to the nearest garage, as defined in Section 340, that is owned, leased, or approved for use by a public agency if a valid ZEV decal identification issued pursuant to this section is not displayed on the vehicle.

(d) The posting required for an offstreet parking facility owned or operated either privately or by a local authority shall consist of a sign not less than 17 by 22 inches in size with lettering not less than one inch in height which clearly and conspicuously states the following: "Unauthorized vehicles not displaying valid zero-emission vehicle decal identifications will be towed away at owner's expense. Towed vehicles may be reclaimed at

_____ or by telephoning

(Address)

_____."

(Telephone number of local law enforcement agency)

The sign shall be posted in either of the following locations:

- (1) Immediately adjacent to, and visible from, the stall or space.
- (2) In a conspicuous place at each entrance to the offstreet parking facility.



(e) If the parking facility is privately owned and public parking is prohibited by the posting of a sign meeting the requirements of paragraph (1) of subdivision (a) of Section 22658, the requirements of subdivision (b) may be met by the posting of a sign immediately adjacent to, and visible from, each stall or space indicating that a vehicle not meeting the requirements of subdivision (a) will be removed at the owner's expense and containing the telephone number of the local traffic law enforcement agency.

(f) (1) For purposes of implementing this section, the Department of Motor Vehicles shall make available for issuance, beginning July 1, 2003, for a fee determined by the Department of Motor Vehicles to be sufficient to reimburse it for actual costs incurred pursuant to this section, distinctive decals for zero-emission vehicles.

(2) The department shall design the decal, which shall be two inches by two inches, and be placed on the driver's side rear window or bumper of the vehicle, or, notwithstanding any other provision of law, if the vehicle does not have a rear window or bumper, on the driver's side of the windshield. Each decal shall display a unique number. The decal may be provided to car dealers who sell electric vehicles for distribution to ZEV purchasers.

(g) For purposes of this section, "zero-emission vehicle" means any car, truck, or any other vehicle that produces no tailpipe or evaporative emissions.

(h) Nothing in this section is intended to interfere with existing law governing the ability of local authorities to adopt ordinances related to parking programs within their jurisdiction, such as programs that provide free parking in metered areas or municipal garages for electric vehicles.

SEC. 3. Section 22511.1 is added to the Vehicle Code, to read:

22511.1. (a) A person may not park or leave standing any vehicle in a stall or space designated pursuant to Section 22511 unless a valid zero-emission vehicle decal identification issued pursuant to Section 22511 is displayed on that vehicle.

(b) A person may not obstruct, block, or otherwise bar access to parking stalls or spaces described in subdivision (a) except as provided in subdivision (a).

(c) A person shall not display a decal issued pursuant to Section 22511 on a vehicle that does not use electricity as the motive power.

SEC. 4. Section 40215 of the Vehicle Code is amended to read:

40215. (a) For a period of 21 calendar days from the issuance of a notice of parking violation or 14 calendar days from the mailing of a notice of delinquent parking violation, a person may request an initial review of the notice by the issuing agency. The request may be made by

telephone, in writing, or in person. There shall be no charge for this review. If, following the initial review, the issuing agency is satisfied that the violation did not occur, that the registered owner was not responsible for the violation, or that extenuating circumstances make dismissal of the citation appropriate in the interest of justice, the issuing agency shall cancel the notice of parking violation or notice of delinquent parking violation. The issuing agency shall advise the processing agency, if any, of the cancellation. The issuing agency or the processing agency shall mail the results of the initial review to the person contesting the notice.

(b) If the person is dissatisfied with the results of the initial review, the person may request an administrative hearing of the violation no later than 21 calendar days following the mailing of the results of the issuing agency's initial review. The request may be made by telephone, in writing, or in person. The person requesting an administrative hearing shall deposit the amount of the parking penalty with the processing agency. The issuing agency shall provide a written procedure to allow a person to request an administrative hearing without payment of the parking penalty upon satisfactory proof of an inability to pay the amount due. Notice of this procedure shall be provided to all persons requesting an administrative hearing. After January 1, 1996, an administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to this article. The person requesting the hearing may request one continuance, not to exceed 21 calendar days.

(c) The administrative hearing process shall include the following:

(1) The person requesting a hearing shall have the choice of a hearing by mail or in person. An in-person hearing shall be conducted within the jurisdiction of the issuing agency. If an issuing agency contracts with an administrative provider, hearings shall be held within the jurisdiction of the issuing agency or no more than 21 miles outside the county.

(2) If the person requesting a hearing is a minor, that person shall be permitted to appear at a hearing or admit responsibility for the parking violation without the necessity of the appointment of a guardian. The processing agency may proceed against the minor in the same manner as against an adult.

(3) The administrative hearing shall be conducted in accordance with written procedures established by the issuing agency and approved by the governing body or chief executive officer of the issuing agency. The hearing shall provide an independent, objective, fair, and impartial review of contested parking violations.

(4) (A) The issuing agency's governing body or chief executive officer shall appoint or contract with qualified examiners or administrative hearing providers that employ qualified examiners to



conduct the administrative hearings. Examiners shall demonstrate those qualifications, training, and objectivity necessary to conduct a fair and impartial review. An examiner shall not be employed, managed, or controlled by a person whose primary duties are parking enforcement, parking citation, processing, collection, or issuance. The examiner shall be separate and independent from the citation collection or processing function. An examiner's continued employment, performance evaluation, compensation, and benefits shall not, directly or indirectly, be linked to the amount of fines collected by the examiner.

(B) Examiners shall have a minimum of 20 hours of training. The examiner is responsible for the costs of the training. The issuing agency may reimburse the examiner for those costs. Training may be provided through (i) an accredited college or university, (ii) a program conducted by the Commission on Peace Officer Standards and Training, (iii) American Arbitration Association or a similar established organization, or (iv) through any program approved by the governing board of the issuing agency, including a program developed and provided by, or for, the agency. Training programs may include topics relevant to the administrative hearing, including, but not limited to, applicable laws and regulations, parking enforcement procedures, due process, evaluation of evidence, hearing procedures, and effective oral and written communication. Upon the approval of the governing board of the issuing agency, up to 12 hours of relevant experience may be substituted for up to 12 hours of training. In addition, up to eight hours of the training requirements described in this subparagraph may be credited to an individual, at the discretion of the governing board of the issuing agency, based upon training programs or courses described in (i) to (iv), inclusive, that the individual attended within the last five years.

(5) The officer or person who issues a notice of parking violation shall not be required to participate in an administrative hearing. The issuing agency shall not be required to produce any evidence other than the notice of parking violation or copy thereof and information received from the Department of Motor Vehicles identifying the registered owner of the vehicle. The documentation in proper form shall be prima facie evidence of the violation.

(6) The examiner's decision following the administrative hearing may be personally delivered to the person by the examiner or sent by first-class mail.

(7) Following a determination by the examiner that a person has committed the violation, the examiner may, consistent with the written guidelines established by the issuing agency, allow payment of the parking penalty in installments, or an issuing agency may allow for deferred payment or allow for payments in installments, if the person



provides evidence satisfactory to the examiner or the issuing agency, as the case may be, of an inability to pay the parking penalty in full. If authorized by the governing board of the issuing agency, the examiner may permit the performance of community service in lieu of payment of a parking penalty.

(d) The provisions of this section relating to the administrative appeal process do not apply to an issuing agency that is a law enforcement agency if the issuing agency does not also act as the processing agency.

SEC. 5. Section 40226 is added to the Vehicle Code, to read:

40226. An issuing agency may, in lieu of collecting a fine for a citation for failure to display a disabled placard, charge an administrative fee not to exceed twenty-five dollars (\$25) to process cancellation of a citation in any case where the individual who received the citation can show proof that he or she had been issued a valid placard at the time the citation was received.

SEC. 6. Section 42001.6 is added to the Vehicle Code, to read:

42001.6. Every person convicted of an infraction for a violation of Section 22511.1 is punishable by a fine of one hundred dollars (\$100).

No part of any fine imposed shall be suspended, except the court may suspend that portion of the fine above twenty-five dollars (\$25) for a violation of Section 22511.1 if the person convicted possessed at the time of the offense, but failed to display, a valid zero-emission vehicle decal identification issued pursuant to subdivisions (a) and (b) of Section 5205.5. The fine may be paid in installments if the court determines that the defendant is unable to pay the entire amount in one payment.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

